

MAY 19 2005

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FACSIMILE COVER SHEET

112025-0437C1

DATE:	May 19, 2005
TOTAL PAGES WITH COVER:	4
TO:	Examiner Harry S Hong
FIRM:	U.S. Patent and Trademark Office
FACSIMILE NUMBER:	703-872-9306 (703-872-9306)
TELEPHONE NUMBER:	703-306-3040
FROM:	John L. Capone

COMMENTS:

Application No.: 10/672,361
Filing Date: September 26, 2003
First Named Inventor: Thomas Hamilton
Examiner Name: Hong, Harry S.
Art Unit: 2642
Title: FAULT TOLERANT TELEPHONY CONTROL

Dear Examiner Hong,

Thank you for your call. Attached is the Terminal Disclaimer that you requested. Please let me know if you need anything else.

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Seq. #8360

PATENTS
112025-0437C1
CPOL# 361602

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In Re The Application of:
Thomas Hamilton**

Serial No.: 10/672,361

Filed: September 26, 2003

For: FAULT TOLERANT TELEPHONY
CONTROL

Examiner: Hong, Harry S.

Art Unit: 2642

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210
May 19, 2005

CERTIFICATE OF TRANSMISSION

I hereby certify that the following paper is being facsimile transmitted to the Patent and Trademark Office on May 19, 2005.

Jeneen Adamo
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X Fee Transmittal Letter

X Terminal Disclaimer To Obviate a Double Patenting Rejection Over a "Prior" Patent

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).		Complete if Known	
FEE TRANSMITTAL For FY 2005		Application Number	10/672,361
		Filing Date	September 26, 2003
		First Named Inventor	Thomas Hamilton
		Examiner Name	Hong, Harry S
		Art Unit	2642
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	112025-0437C-1
TOTAL AMOUNT OF PAYMENT	(\$)	130	

METHOD OF PAYMENT (check all that apply)

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☒ Deposit Account: Deposit Account Number 03-1237 Deposit Account Name Cesari and McKenna, LLP

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☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Terminal Disclaimer fee under 37 CFR 1.20(d) 130

SUBMITTED BY

Signature	<u>John L. Capone</u>	Registration No. (Attorney/Agent)	41,656	Telephone	(617) 951-2500
Name (Print/Type)	John L. Capone			Date	May 19, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
112025-0437C1

In re Application of: Thomas Hamilton

Application No.: 10/872,361

Filed: September 26, 2003

For: FAULT TOLERANT TELEPHONY CONTROL

The owner, Cisco Technology, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,690,789 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 41,656

Signature

May 19, 2005

Date

John L. Capone
Typed or printed name(617) 851-2500
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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